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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,527	11/10/2003	Koji Ito	4041J-000808	5406

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EXAMINER	
FORD, JOHN K	

ART UNIT	PAPER NUMBER
3753	

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/705,527	ITO ET AL.	
	Examiner	Art Unit	
	John K. Ford	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 4/21/06

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) 7,8,13-15,17-23 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-6,9-12 and 16 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 11/10/03
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Applicant's election of the first species described on page 11, line 8 - page 30, line 1 of the specification (as shown in Figures 1-2), without traverse, is acknowledged. Claims 1-6, 9-12 and 16 have been identified as readable on the elected species. Accordingly, claims 7, 8, 13, 14, 15 and 17-23 are withdrawn at this time.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 3, 4, 5, 9, 10, 11 and 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ruger et al (USP 5,619,862).

Ruger shows a main blower 22, a heat exchanging unit 42, a case 12, a first passage between the outlet of heat exchanging unit 42 and the inlet of the main blower 22 and a second passage between the outlet of heat exchanging unit 42 and the inlet of the sub-blower 20. The air flow resistance in the second passage is clearly higher than in the first passage because of the extremely constricted area in the upper left corner of

the casing (i.e. between the casing wall and partition 73). No such extremely constricted area is disclosed in the first passage formed between the outlet of heat exchanging unit 42 and the inlet of the main blower 22.

Regarding the term "integrally" in claim 1, this has been construed broadly by the CCPA to include multiple components fastened together. See In re Hotte 177 USPQ 326 (CCPA 1973) and In re Miskinyar, 28 USPQ 1789 (Fed. Cir. unpublished). As well, it has been deemed obvious to make integral something made of separate parts. See MPEP 2144.04, V. B. "Making Integral" and In re Larson, 144 USPQ 347, 349 (CCPA 1965). In view of the holding of Larson it would have been obvious to have made the blower 20 of Ruger integral with the casing 12 to advantageously reduce the "parts count" and/or the cost of labor during the manufacturing process.

Regarding claim 2, the temperature adjustment unit is shown at 80.

Regarding claims 3 and 4, for purposes of rejection the side of the case 12, closest to, and parallel to, the air filter 66 is the deemed the lower side of the case. Likewise the side of the casing 12 abutting partition 72b is deemed the upper side. Note that applicant's claimed are deemed to be drawn to the air conditioner per se, not the combination of the air conditioner and a vehicle, hence limitations directed to the intended orientation in the vehicle are not given weight. Similarly, intended manners of operating the device as claimed in claims 11 and 12 are not given weight in assessing the patentability of claims drawn to the apparatus. See MPEP 2114, incorporated here by reference.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruger as applied to claim 1 above, and further in view of Denso's JP 61-89114.

JP '114, assigned to Denso, discloses the type of fan claimed here in a "draw-thorough" orientation similar to the one shown by Ruger. To have substituted blower unit 30 of JP '114 in place of blower unit 20 of Ruger, to advantageously improve the amount of airflow through the second passage and/or to distribute air the right and left hand sides of the rear compartment of the vehicle.

Claims 1, 11 and 12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Denso assigned patent USP 6,196,308 to Halligan.

Halligan, in Figure 6, shows a main blower 59, a heat exchanging unit 49, a case 41, a first passage between the outlet of heat exchanging unit 49 and the inlet of the main blower 59 and a second passage between the outlet of heat exchanging unit 49 and the inlet of the sub-blower 55. The airflow resistance in the second passage is higher than in the first passage because of the extremely constricted area in the corner of the casing, above, and to the left of heat exchanger 53, when both doors 131 and 133 are in their "phantomed" positions. No such extremely constricted area is disclosed in the first passage formed between the outlet of heat exchanging unit 49 and the inlet

of the main blower 59. Regarding claims 11 and 12, the two doors 131 and 133 are deemed, for purposes of this rejection, as a hot air door and the other a cold air door.

Regarding the term "integrally" in claim 1, this has been construed broadly by the CCPA to include multiple components fastened together. See In re Hotte 177 USPQ 326 (CCPA 1973) and In re Miskinyar, 28 USPQ 1789 (Fed. Cir. unpublished). As well, it has been deemed obvious to make integral something made of separate parts. See MPEP 2144.04, V. B. "Making Integral" and In re Larson, 144 USPQ 347, 349 (CCPA 1965). In view of the holding of Larson it would have been obvious to have made the blower 55 and duct 135 of Halligan integral with the casing 41 to advantageously reduce the "parts count" and/or the cost of labor during the manufacturing process.

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.

John K. Ford
Primary Examiner